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JAN 12 2009

**OFFICE OF PETITIONS**

In re Application of :  
Gregor K. Frey et al :  
Application No. 10/748,951 :  
Filed: December 30, 2003 :  
Attorney Docket No. 6570P046

:  
: ON PETITION  
:

This is a decision on the petition filed December 1, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application is abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed April 23, 2008, which set a statutory period for reply of three (3) months. The Request for Continued Examination (RCE) filed with the petition on December 1, 2008 is improper since it was received after the three (3) months statutory period. Accordingly, the above-identified application became abandoned on July 24, 2008.

Since the application is abandoned for failure to submit the Issue fee and Publication fee, payment of there fees are required. With the authorization to charge, the Office is charging the \$1510 Issue fee and \$300 Publication fee to the petitioner's deposit account.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to Mail Stop Issue Fee, within ONE MONTH from the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

  
Irvin Dingle  
Petitions Examiner  
Office of Petitions